

Chapter 1 Marriage

30-1-1 Incestuous marriages void.

- (1) The following marriages are incestuous and void from the beginning, whether the relationship is legitimate or illegitimate:
 - (a) marriages between parents and children;
 - (b) marriages between ancestors and descendants of every degree;
 - (c) marriages between brothers and sisters of the half as well as the whole blood;
 - (d) marriages between uncles and nieces or aunts and nephews;
 - (e) marriages between first cousins, except as provided in Subsection (2); or
 - (f) marriages between any persons related to each other within and not including the fifth degree of consanguinity computed according to the rules of the civil law, except as provided in Subsection (2).
- (2) First cousins may marry under the following circumstances:
 - (a) both parties are 65 years of age or older; or
 - (b) if both parties are 55 years of age or older, upon a finding by the district court, located in the district in which either party resides, that either party is unable to reproduce.

Amended by Chapter 83, 1996 General Session

30-1-2 Marriages prohibited and void.

The following marriages are prohibited and declared void:

- (1) when there is a husband or wife living, from whom the person marrying has not been divorced;
- (2) when the male or female is under 18 years of age unless consent is obtained as provided in Section 30-1-9;
- (3) when the male or female is under 14 years of age or, beginning May 3, 1999, when the male or female is under 16 years of age at the time the parties attempt to enter into the marriage; however, exceptions may be made for a person 15 years of age, under conditions set in accordance with Section 30-1-9;
- (4) between a divorced person and any person other than the one from whom the divorce was secured until the divorce decree becomes absolute, and, if an appeal is taken, until after the affirmance of the decree; and
- (5) between persons of the same sex.

Amended by Chapter 15, 1999 General Session

30-1-2.1 Validation of marriage to a person subject to chronic epileptic fits who had not been sterilized.

All marriages, otherwise valid and legal, contracted prior to the effective date of this act, to which either party was subject to chronic epileptic fits and who had not been sterilized, as provided by law, are hereby validated and legalized in all respects as though such marriages had been duly and legally contracted in the first instance.

Enacted by Chapter 41, 1963 General Session

30-1-2.2 Validation of interracial marriages.

All interracial marriages, otherwise valid and legal, contracted prior to July 1, 1965, to which one of the parties of the marriage was subject to disability to marry on account of Subsection 30-1-2(5) or (6), as those subsections existed prior to May 14, 1963, are hereby valid and made lawful in all respects as though such marriages had been duly and legally contracted in the first instance.

Amended by Chapter 20, 1995 General Session

30-1-2.3 Validation of marriage to a person with acquired immune deficiency syndrome or other sexually transmitted disease.

Each marriage contracted prior to October 21, 1993, is valid and legal but for the prohibition described in Laws of Utah 1991, Chapter 117, Section 1, Subsection 30-1-2(1) regarding persons afflicted with acquired immune deficiency syndrome, syphilis, or gonorrhea, is hereby valid and made lawful in all respects as though that marriage had been legally contracted in the first instance.

Amended by Chapter 20, 1995 General Session

30-1-3 Marriage in belief of death or divorce of former spouse -- Issue legitimate.

When a marriage is contracted in good faith and in the belief of the parties that a former husband or wife, then living and not legally divorced, is dead or legally divorced, the issue of such marriage born or begotten before notice of the mistake shall be the legitimate issue of both parties.

No Change Since 1953

30-1-4 Validity of foreign marriages -- Exceptions.

A marriage solemnized in any other country, state, or territory, if valid where solemnized, is valid here, unless it is a marriage:

- (1) that would be prohibited and declared void in this state, under Subsection 30-1-2(1), (3), or (5);
or
- (2) between parties who are related to each other within and including three degrees of consanguinity, except as provided in Subsection 30-1-1(2).

Amended by Chapter 83, 1996 General Session

30-1-4.1 Marriage recognition policy.

- (1)
 - (a) It is the policy of this state to recognize as marriage only the legal union of a man and a woman as provided in this chapter.
 - (b) Except for the relationship of marriage between a man and a woman recognized pursuant to this chapter, this state will not recognize, enforce, or give legal effect to any law creating any legal status, rights, benefits, or duties that are substantially equivalent to those provided under Utah law to a man and a woman because they are married.
- (2) Nothing in Subsection (1) impairs any contract or other rights, benefits, or duties that are enforceable independently of this section.

Enacted by Chapter 261, 2004 General Session

30-1-4.5 Validity of marriage not solemnized.

- (1) A marriage which is not solemnized according to this chapter shall be legal and valid if a court or administrative order establishes that it arises out of a contract between a man and a woman who:
 - (a) are of legal age and capable of giving consent;
 - (b) are legally capable of entering a solemnized marriage under the provisions of this chapter;
 - (c) have cohabited;
 - (d) mutually assume marital rights, duties, and obligations; and
 - (e) who hold themselves out as and have acquired a uniform and general reputation as husband and wife.
- (2) The determination or establishment of a marriage under this section shall occur during the relationship described in Subsection (1), or within one year following the termination of that relationship. Evidence of a marriage recognizable under this section may be manifested in any form, and may be proved under the same general rules of evidence as facts in other cases.

Amended by Chapter 297, 2011 General Session

30-1-5 Marriage solemnization -- Before unauthorized person -- Validity.

- (1) A marriage solemnized before a person professing to have authority to perform marriages may not be invalidated for lack of authority, if consummated in the belief of the parties or either of them that the person had authority and that they have been lawfully married.
- (2) This section may not be construed to validate a marriage that is prohibited or void under Section 30-1-2.

Amended by Chapter 297, 2011 General Session

30-1-6 Who may solemnize marriages -- Certificate.

- (1) Except for a county clerk, or a county clerk's designee, as provided below, the following persons may solemnize a marriage at that person's discretion:
 - (a) ministers, rabbis, or priests of any religious denomination who are:
 - (i) in regular communion with any religious society; and
 - (ii) 18 years of age or older;
 - (b) Native American spiritual advisors;
 - (c) the governor;
 - (d) the lieutenant governor;
 - (e) mayors of municipalities or county executives;
 - (f) a justice, judge, or commissioner of a court of record;
 - (g) a judge of a court not of record of the state;
 - (h) judges or magistrates of the United States;
 - (i) the county clerk of any county in the state or the county clerk's designee as authorized by Section 17-20-4;
 - (j) the president of the Senate;
 - (k) the speaker of the House of Representatives; or
 - (l) a judge or magistrate who holds office in Utah when retired, under rules set by the Supreme Court.
- (2) A person authorized under Subsection (1) who solemnizes a marriage shall give to the couple married a certificate of marriage that shows the:
 - (a) name of the county from which the license is issued; and
 - (b) date of the license's issuance.

(3) As used in this section:

(a) "Judge or magistrate of the United States" means:

- (i) a justice of the United States Supreme Court;
- (ii) a judge of a court of appeals;
- (iii) a judge of a district court;
- (iv) a judge of any court created by an act of Congress the judges of which are entitled to hold office during good behavior;
- (v) a judge of a bankruptcy court;
- (vi) a judge of a tax court; or
- (vii) a United States magistrate.

(b)

(i) "Native American spiritual advisor" means a person who:

- (A) leads, instructs, or facilitates a Native American religious ceremony or service or provides religious counseling; and
- (B) is recognized as a spiritual advisor by a federally recognized Native American tribe.

(ii) "Native American spiritual advisor" includes a sweat lodge leader, medicine person, traditional religious practitioner, or holy man or woman.

(4) Except as provided in Section 17-20-4, and notwithstanding any other provision in law, no person authorized under Subsection (1) to solemnize a marriage may delegate or deputize another person to perform the function of solemnizing a marriage.

Amended by Chapter 46, 2015 General Session

30-1-7 Marriage licenses -- Use within state -- Expiration.

- (1) No marriage may be solemnized in this state without a license issued by the county clerk of any county of this state.
- (2) A license issued within this state by a county clerk may only be used within this state.
- (3) A license that is not used within 30 days of the date of issuance is void.

Amended by Chapter 289, 2004 General Session

30-1-8 Application for license -- Contents.

- (1) A marriage license may be issued by the county clerk to a man and a woman only after an application has been filed in his office, requiring the following information:
 - (a) the full names of the man and the woman, including the maiden name of the woman;
 - (b) the Social Security numbers of the parties, unless the party has not been assigned a number;
 - (c) the current address of each party;
 - (d) the date and place of birth (town or city, county, state or country, if possible);
 - (e) the names of their respective parents, including the maiden name of the mother;
 - (f) the birthplaces of fathers and mothers (town or city, county, state or country, if possible); and
 - (g) the distinctive race or nationality of each of the parents.
- (2) If the woman is a widow, her maiden name shall be shown in brackets.
- (3) If one or both of the parties is under 16 years of age, the clerk shall provide them with a standard petition on a form approved by the Judicial Council to be presented to the juvenile court to obtain the authorization required by Section 30-1-9.
- (4)
 - (a) The Social Security numbers obtained under the authority of this section may not be recorded on the marriage license, and are not open to inspection as a part of the vital statistics files.

- (b) The Department of Health, Bureau of Vital Records and Health Statistics shall, upon request, supply those Social Security numbers to the Office of Recovery Services within the Department of Human Services.
- (c) The Office of Recovery Services may not use any Social Security numbers obtained under the authority of this section for any reason other than the administration of child support services.

Amended by Chapter 261, 2004 General Session

30-1-9 Marriage by minors -- Consent of parent or guardian -- Juvenile court authorization.

- (1) For purposes of this section, "minor" means a male or female under 18 years of age.
- (2)
 - (a) If at the time of applying for a license the applicant is a minor, and not before married, a license may not be issued without the signed consent of the minor's father, mother, or guardian given in person to the clerk; however:
 - (i) if the parents of the minor are divorced, consent shall be given by the parent having legal custody of the minor as evidenced by an oath of affirmation to the clerk;
 - (ii) if the parents of the minor are divorced and have been awarded joint custody of the minor, consent shall be given by the parent having physical custody of the minor the majority of the time as evidenced by an oath of affirmation to the clerk; or
 - (iii) if the minor is not in the custody of a parent, the legal guardian shall provide the consent and provide proof of guardianship by court order as well as an oath of affirmation.
 - (b) If the male or female is 15 years of age, the minor and the parent or guardian of the minor shall obtain a written authorization to marry from:
 - (i) a judge of the court exercising juvenile jurisdiction in the county where either party to the marriage resides; or
 - (ii) a court commissioner as permitted by rule of the Judicial Council.
- (3)
 - (a) Before issuing written authorization for a minor to marry, the judge or court commissioner shall determine:
 - (i) that the minor is entering into the marriage voluntarily; and
 - (ii) the marriage is in the best interests of the minor under the circumstances.
 - (b) The judge or court commissioner shall require that both parties to the marriage complete premarital counseling. This requirement may be waived if premarital counseling is not reasonably available.
 - (c) The judge or court commissioner may require:
 - (i) that the person continue to attend school, unless excused under Section 53A-11-102; and
 - (ii) any other conditions that the court deems reasonable under the circumstances.
- (4) The determination required in Subsection (3) shall be made on the record. Any inquiry conducted by the judge or commissioner may be conducted in chambers.

Amended by Chapter 1, 2000 General Session

30-1-9.1 Parental consent to prohibited marriage of minor -- Penalty.

A parent or guardian who knowingly consents or allows a minor child to enter into a marriage prohibited by law is guilty of a third degree felony.

Enacted by Chapter 129, 2001 General Session

30-1-10 Application by persons unknown to clerk -- Affidavit -- Penalty.

- (1) When the parties are personally unknown to the clerk a license may not be issued until an affidavit is made before the clerk, which shall be filed and preserved by the clerk, by a party applying for the license, showing that there is no lawful reason in the way of the marriage.
- (2) A party who makes an affidavit described in Subsection (1) or a subscribing witness to the affidavit who falsely swears in the affidavit is guilty of perjury.

Amended by Chapter 297, 2011 General Session

30-1-11 Return of license after ceremony -- Failure -- Penalty.

The person solemnizing the marriage shall within 30 days thereafter return the license to the clerk of the county whence it issued, with a certificate of the marriage over his signature, giving the date and place of celebration and the names of two or more witnesses present at the marriage. For failure to make such return he shall be guilty of a misdemeanor.

No Change Since 1953

30-1-12 Clerk to file license and certificate.

- (1) The license, together with the certificate of the person officiating at the marriage, shall be filed and preserved by the clerk, and shall be recorded by him in a book kept for that purpose, or by electronic means. The record shall be properly indexed in the names of the parties so married.
- (2) A transcript shall be promptly certified and transmitted by the clerk to the state registrar of vital statistics.

Amended by Chapter 154, 1988 General Session

30-1-13 Solemnization without license -- Penalty.

If any person knowingly solemnizes a marriage without a license, and if either party is under 16 years of age, without a written authorization from a juvenile court, he is guilty of a third degree felony.

Amended by Chapter 129, 2001 General Session

30-1-14 Acting without authority -- Impersonation -- Forgery -- Penalty.

A person is guilty of a third degree felony if he:

- (1) knowingly solemnizes a marriage in violation of either Section 30-1-6, 30-1-7, or 30-1-9.1;
- (2) impersonates a parent or guardian of a minor to obtain a license for the minor to marry; or
- (3) forges the name of a parent or guardian of a minor on any writing purporting to give consent to a marriage of a minor.

Amended by Chapter 129, 2001 General Session

30-1-15 Solemnization of prohibited marriage -- Penalty.

- (1) Any person who knowingly, with or without a license, solemnizes a marriage of a minor prohibited by law is guilty of a third degree felony.
- (2) Any person who knowingly, with or without a license, solemnizes a marriage between two adults prohibited by law is guilty of a class A misdemeanor.

Amended by Chapter 129, 2001 General Session

30-1-16 Misconduct of county clerk -- Penalty.

Every clerk or deputy clerk who knowingly issues a license for any prohibited marriage is guilty of a class A misdemeanor.

Amended by Chapter 108, 2013 General Session

30-1-17 Action to determine validity of marriage -- Judgment of validity or annulment.

When there is doubt as to the validity of a marriage, either party may, in a court of equity in a county where either party is domiciled, demand its avoidance or affirmance, but when one of the parties was under the age of consent at the time of the marriage, the other party, being of proper age, shall have no such proceeding for that cause against the party under age. The judgment in the action shall either declare the marriage valid or annulled and shall be conclusive upon all persons concerned with the marriage.

Amended by Chapter 65, 1971 General Session

30-1-17.1 Annulment -- Grounds for.

A marriage may be annulled for any of the following causes existing at the time of the marriage:

- (1) When the marriage is prohibited or void under Title 30, Chapter 1, Marriage.
- (2) Upon grounds existing at common law.

Enacted by Chapter 65, 1971 General Session

30-1-17.2 Action to determine validity of marriage -- Orders relating to parties, property, and children -- Presumption of paternity in marriage.

- (1) If the parties have accumulated any property or acquired any obligations subsequent to the marriage, if there is a genuine need arising from an economic change of circumstances due to the marriage, or if there are children born or expected, the court may make temporary and final orders, and subsequently modify the orders, relating to the parties, their property and obligations, the children and their custody and parent-time, and the support and maintenance of the parties and children, as may be equitable.
- (2) A man is presumed to be the father of a child if:
 - (a) he and the mother of the child are married to each other and the child is born during the marriage;
 - (b) he and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation;
 - (c) before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is, or could be, declared invalid and the child is born during the invalid marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce, or after a decree of separation; or
 - (d) after the birth of the child, he and the mother of the child have married each other in apparent compliance with law, whether or not the marriage is, or could be declared, invalid, he voluntarily asserted his paternity of the child, and there is no other presumptive father of the child, and:

- (i) the assertion is in a record filed with the state registrar;
 - (ii) he agreed to be and is named as the child's father on the child's birth certificate; or
 - (iii) he promised in a record to support the child as his own.
- (3) If the child was born at the time of entry of a divorce decree, other children are named as children of the marriage, but that child is specifically not named, the husband is not presumed to be the father of the child not named in the order.
- (4) A presumption of paternity established under this section may only be rebutted in accordance with Section 78B-15-607.
- (5) A final order or decree issued by a tribunal in which paternity is adjudicated may not be set aside unless the court finds that one of the parties perpetrated a fraud in the establishment of the paternity and another party did not know or could not reasonably have known of the fraud at the time of the entry of the order. The party who committed the fraud may not bring the action.

Amended by Chapter 3, 2008 General Session

30-1-17.3 Age as basis of action to determine validity of marriage -- Refusal to grant annulment.

If an action to determine the validity of a marriage is commenced upon the ground that one or both of the parties were prohibited from marriage because of their age, in addition to all of the foregoing provisions, the following shall apply: The provisions of this code regarding marriage by a person or persons under the age of consent to the contrary notwithstanding, the court may, in its discretion, refuse to grant an annulment if it finds that it is in the best interest of the parties or their children, to refuse the annulment. The refusal shall make the marriage valid and subsisting for all purposes.

Enacted by Chapter 65, 1971 General Session

30-1-17.4 Action for annulment or divorce as alternative relief.

Nothing herein shall be construed to prevent the filing of an action requesting an annulment or a divorce as alternative relief.

Enacted by Chapter 65, 1971 General Session

30-1-30 Premarital counseling -- State policy -- Applicability.

It is the policy of the state of Utah to enhance the possibility of couples to achieve more stable, satisfying and enduring marital and family relationships by providing opportunities for and encouraging the use of premarital counseling prior to securing a marriage license by persons under 19 years of age and by persons who have been previously divorced.

Enacted by Chapter 64, 1971 General Session

30-1-31 Premarital counseling board in county -- Appointment, terms, compensation, offices -- Common counseling board with adjacent county.

The boards of commissioners of the respective counties in this state are authorized to provide for premarital counseling and to require the use of premarital counseling as a condition precedent to the issuance of a marriage license under the provisions of this act. They may appoint a premarital counseling board consisting of seven members, four of whom shall be lay persons and three of whom shall be chosen from the professions of psychiatry, psychology, social

work, marriage counseling, the clergy, law or medicine. They may designate the terms of office and the procedures to be followed by the premarital counseling board and provide for payment of compensation and expenses for members. They may pay the salaries and expenses of a counseling staff under the supervision of the premarital counseling board and provide office space, furnishings, equipment and supplies for their use.

A county may join with an adjacent county or counties in forming a common premarital counseling board and in establishing a common master plan for premarital counseling.

Enacted by Chapter 64, 1971 General Session

30-1-32 Master plan for counseling.

- (1) It shall be the function and duty of the premarital counseling board, after holding public hearings, to make, adopt, and certify to the county legislative body a master plan for premarital counseling of marriage license applicants within the purposes and objectives of this act.
- (2) The master plan described in Subsection (1) shall include:
 - (a) counseling procedures that:
 - (i) will make applicants aware of problem areas in their proposed marriage;
 - (ii) suggest ways of meeting problems; and
 - (iii) will induce reconsideration or postponement when:
 - (A) the applicants are not sufficiently matured or are not financially capable of meeting the responsibilities of marriage; or
 - (B) are marrying for reasons not conducive to a sound lasting marriage; and
 - (b) standards for evaluating premarital counseling received by the applicants, prior to their application for a marriage license, which would justify issuance of certificate without further counseling being given or required.
- (3) The board may, from time to time, amend or extend the plan described in Subsection (1).
- (4) The premarital counseling board may, subject to Subsection (5):
 - (a) appoint a staff and employees as may be necessary for its work; and
 - (b) contract with social service agencies or other consultants within the county or counties for services it requires.
- (5) Expenditures for the appointments and contracts described in Subsection (4) may not exceed the sums appropriated by the county legislative body plus sums placed at its disposal through gift or otherwise.

Amended by Chapter 297, 2011 General Session

30-1-33 Conformity to master plan for counseling as prerequisite to marriage license -- Exceptions.

Whenever the board of commissioners of a county has adopted a master plan for premarital counseling no resident of the county may obtain a marriage license without conforming to the plan, except that:

- (1) Any person who applies for a marriage license shall have the right to secure the license and to marry notwithstanding their failure to conform to the required premarital counseling or their failure to obtain a certificate of authorization from the premarital counseling board if they wait six months from the date of application for issuance of the license.
- (2) This chapter does not apply to any application for a marriage license where both parties are at least 19 years of age and neither has been previously divorced.

- (3) This chapter does not apply to any application for a marriage license unless both applicants have physically resided in Utah for 60 days immediately preceding their application.
- (4) Premarital counseling required by this act shall be considered fulfilled if the applicants present a certificate verified by a clergyman that the applicants have completed a course of premarital counseling approved by a church and given by or under the supervision of the clergyman.

Amended by Chapter 297, 2011 General Session

30-1-34 Certificate of completion of counseling.

The county clerk of any county which has adopted this act shall issue a marriage license to those applicants who come within the premarital counseling requirements of this act when the applicants present a certificate from the premarital counseling board that the counseling has been completed or has been found to be adequate if the license application otherwise conforms to the requirements for issuance of a marriage license. For those applicants who would otherwise need approval of the district court in order to marry, the certificate shall take the place of court consent if the parents, guardian or custodial parent of the applicant have given their consent to the marriage.

Enacted by Chapter 64, 1971 General Session

30-1-35 Persons performing counseling services designated by board -- Exemption from license requirements.

For the purposes of this chapter the premarital counseling board of each county or combination of counties may determine those persons who are to perform any services under this chapter and any person so acting is not subject to prosecution or other sanctions for the person's failure to hold any license for these services as may be required by the laws of the state.

Amended by Chapter 297, 2011 General Session

30-1-36 Activities included in premarital counseling.

Premarital counseling as used in this act shall include but not be limited to lectures, group counseling, individual counseling and testing.

Enacted by Chapter 64, 1971 General Session

30-1-37 Confidentiality of information obtained under counseling provisions.

Except for the information required or to be required on the marriage license application form, any information given by a marriage license applicant in compliance with this chapter shall be confidential information and may not be released by any person, board, commission, or other entity. However, the premarital counseling board or board of commissioners may use the information, without identification of individuals, to compile and release statistical data.

Amended by Chapter 297, 2011 General Session

30-1-38 Fee for counseling.

Any county adopting a master plan under this act is authorized to charge, in addition to its ordinary marriage license application fees, not more than \$10 for premarital counseling, to be paid by the applicants at the time they make application.

Enacted by Chapter 64, 1971 General Session

30-1-39 Violation of counseling provisions -- Misdemeanor.

Any person coming within the provisions of this act who falsely represents that he has complied with the requirements of a master plan for premarital counseling or who, for the purpose of evading the provisions of this act, applies for a marriage license in a county within the state of Utah which does not require premarital counseling, is guilty of a misdemeanor.

Enacted by Chapter 64, 1971 General Session